



## INTERNATIONAL TRADE COMMISSION

### Investigation No. 337-TA-739

#### **Certain Ground Fault Circuit Interrupters and Products Containing Same; Notice of Final Determination; Issuance of General Exclusion Order and Cease and Desist Orders; Termination of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined that a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) has been shown to exist in the above-captioned investigation and has issued a general exclusion order and cease and desist orders. The investigation is terminated.

**FOR FURTHER INFORMATION:** Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on October 8, 2010, based on a complaint and an amended complaint filed by Leviton Manufacturing Co., of Melville, New York (“Leviton”). 75 FR 62420 (Oct. 8, 2010). The complaint and amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of claims 1-7, 9-11, 13-17, 23-26, and 32-36 of U.S. Patent No. 7,463,124 (“the ’124 patent”); claims 1-11, 13-28, 30-59, 61-64, and 74-83 of U.S. Patent No. 7,737,809 (“the ’809 patent”); and claims 1-4 and 8 of U.S. Patent No. 7,764,151 (“the ’151 patent”). The notice of investigation named numerous respondents, and during the course of the investigation several of the respondents were found to be in default or were terminated on the basis of settlement agreements, consent orders, or withdrawn allegations. At the time of the evidentiary hearing, seven respondents remained in the investigation, consisting of Zhejiang Trimone Electric Science & Technology Co. Ltd., of Zhejiang, China (“Trimone”); Fujian Hongan Electric Co, Ltd., of Fujian, China (“Hongan”); TDE, Inc., of Bellevue, Washington (“TDE”); Shanghai ELE Manufacturing Corp., of Shanghai, China (“ELE”); Orbit Industries, Inc., of Los Angeles, California (“Orbit”); American Electric Depot Inc., of Fresh Meadows, New York (“AED”); and Shanghai Jia AO Electrical Co. (“Shanghai Jia”).

On December 20, 2011, the presiding administrative law judge (“ALJ”) issued his final initial determination (“ID”) in this investigation finding that Leviton had not sufficiently shown that a domestic industry exists with respect to articles protected by the asserted patents. Accordingly, the ALJ found no violation of section 337.

On February 21, 2012, the Commission issued a notice that it had determined to review the ID in its entirety and requested submissions from the parties on certain issues under review and from the parties and the public on the issues of remedy, the public interest, and bonding.

In response to the Commission's notice of review, Leviton, Trimone, Hongan, TDE, the Commission investigative attorney, and non-party Pass & Seymour, Inc. filed submissions and replies. Pass & Seymour, Inc. also submitted a motion for leave to file a sur-reply, which the Commission has denied.

Upon review of the final ID, the submissions received in response to the Commission's notice of review, and the record of the investigation, the Commission has determined that a violation of section 337 has been shown based on infringement of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent. The Commission has determined that certain claims of the '124 and '151 patents are invalid and no violation based on those patents has been shown.

The Commission has determined that the appropriate form of relief is as follows: (1) a general exclusion order prohibiting the unlicensed entry of ground fault circuit interrupters and products containing the same that infringe one or more of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent, and (2) cease and desist orders prohibiting defaulting respondents Menard, Inc., of Eau Claire, Wisconsin; Garvin Industries, Inc., of Franklin Park, Illinois; Aubuchon Co., Inc., of Westminister, Massachusetts; Westside Wholesale Electric & Lighting, Inc., of Los Angeles, California; New Aspen Devices Corporation, of Brooklyn, New York; American Ace Supply Inc., of San Francisco, California; Contractor Lighting & Supply, Inc., of Columbus, Ohio; Littman Bros. Energy Supplies, Inc., of Schaumburg, Illinois; Safety Plus, Inc., of McFarland, Wisconsin; Norcross Electric Supply Co. of Suwanee, Georgia; Royal Pacific Ltd. of Albuquerque, New Mexico; and Zhejiang Easting House Electric Co. of Zhejiang,

China, from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for ground fault circuit interrupters and products containing the same that infringe one or more of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent.

The Commission has further determined that the public interest factors enumerated in subsections (d)(1) and (f) (19 U.S.C. §§ 1337(d)(1), (f)) do not preclude issuance of the general exclusion order or the cease and desist orders. Finally, the Commission has determined that a bond of \$0.25 per unit is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

The Commission has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

James R. Holbein  
Secretary to the Commission

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